

REMARKS

I. STATUS OF THE CLAIMS

Claims 1-4, 8, 10, 12, 15-17, 19, and 21 were pending in the present application prior to this Amendment. In the Office Action mailed June 12, 2008 all of these claims were rejected.

Claims 1, 2, 10, 15, and 19 are amended, claim 21 has been canceled, and claims 25-28 have been added. Thus, claims 1-4, 8, 10, 12, 13, 15-17 19, and 25 remain pending.

II. INTERVIEW SUMMARY

The undersigned would like to thank Examiner Gilbert for his helpful comments and suggestions during the interview conducted on September 4, 2008.

Pursuant to 37 C.F.R. § 1.133(b), the following description is submitted as a complete written statement of the reasons presented at the interview as warranting favorable action. The following statement is intended to comply with the requirements of MPEP § 713.04 and expressly sets forth: (A) a brief description of the nature any exhibit shown or any demonstration conducted; (B) identification of the claims discussed; (C) identification of specific prior art discussed; (D) identification of the principal proposed amendments of a substantive nature discussed; (E) the general thrust of the principal arguments; and (F) a general indication of any other pertinent matters; and (G) the general results or outcome of the interview, if appropriate.

(A) No exhibits or models were shown or demonstrations conducted.

(B) The pending claims were discussed generally, and claim 1 was discussed in particular.

(C) The Schiffmann et al. (U.S. Patent No. 7,204,059) ("Schiffmann") reference was discussed.

(D) No proposed amendments to the claims were discussed.

(E) The purpose of the interview was to obtain clarification of the Office Action dated June 12, 2008 and the Examiner's interpretation of Schiffmann. The undersigned discussed particular features of claim 1 and the Examiner offered explanation as to how Schiffmann purportedly disclosed those features. More specifically, a nailing fin, a drip lip, and a hinge of the Applicant's apparatus were discussed. Regarding the nailing fin, the undersigned pointed out that the nailing fin 22, as claimed, projects upwardly from a flashing strip 37 and away from a

head jamb assembly 14, whereas the nailing fin of Schiffmann (identified by the Office Action as element 46, which is identified in Schiffmann as a “door leg element”) extends downward, towards the head jamb. The undersigned further noted that the Applicant’s tab 42 is oriented in a direction opposite the nailing fin 22, which was not the case with Schiffman. The tab 86B of Schiffmann and the door leg element 46 are oriented in the same direction. The Examiner agreed that this was a distinction over Schiffmann. Regarding the drip edge and drip lip, the undersigned noted that when Schiffmann’s tear off cover tab 92 is removed from the structure, the drip lip 88 is removed as well. In contrast, the drip lip 20 of the Applicant’s claimed apparatus remains integral with the drip edge 21 when a temporary construction cover 39 is removed. The Examiner stated that wording of claim 1 gave no indication if, or when, the temporary construction cover 39 would be removed suggesting that the structure of Applicant’s drip lip 20 and drip edge 21 would be similar to Schiffmann. The Examiner suggested the use of method claims may be beneficial in making this distinction. Regarding the hinge, the undersigned expressed confusion over how the alleged hinge of Schiffmann (identified as “B” on page 5 of the Office Action) was actually a hinge. The Examiner explained that the term hinge refers to any pivot point (in the case of Schiffmann, the elbow at “B” is the pivot point) that allows relative movement. The Examiner noted that legs 40 and 46 are permitted to move relative to the pivot point.

- (F) No other pertinent matters were discussed.
- (G) The interview concluded with no agreement with respect to the claims being reached.

III. CLAIM OBJECTIONS

Claim 21 was objected to because of informalities. Applicant has cancelled claim 21 and thus requests the Examiner to withdraw the objection.

IV. CLAIM REJECTIONS UNDER 35 U.S.C. §102

Claims 1-4, 8, 10, 12, 13, 15-17, 19, and 21 were rejected under 35 U.S.C. §102(a) as anticipated by Schiffmann. Claim 21 has been cancelled. Remaining independent claims 1, 10, 15, and 19 have been amended and claims 25-28 have been added. All of the pending claims are

believed to be in condition for allowance in view of the following discussion.

Schiffmann discloses various configurations of a temporary removable plastic door jamb guard that clips onto a door and covers and protects from damage the inwardly facing otherwise exposed faces of the jambs (See Fig. 1 of Schiffmann wherein the guard 36 clips onto the door jamb at the stop 24 and trim 10 and covers the inwardly facing jamb face 22 to protect it from damage). Fig. 9 of Schiffmann, relied upon in the office action as including the elements of the claims, represents an embodiment of such a guard. In this embodiment, the plastic guard temporarily clips to a jamb between the brick mold or trim 94 and the stop adjacent weather stripping 28 (see Fig. 10). It is formed with a central section 40 that overlies the inside face of the jamb and an outer leg section 52 that overlies the trim or brick mold along the outside of the jamb. The guard is held temporarily in place with a compressive friction fit provided by the flexible friction tabs 60 located on the underside of door leg section 46, which bear against the stop and the outside edge of the jamb respectively. Tear line 100 is provided so that the tab 92, which temporarily covers the outside edge of the trim, can be torn away and removed for installing siding, brick, or other façade against the trim.

In contrast, claim 1 has been amended to include, among other things, the recitation of a tab projecting toward a head jamb, a nailing fin projecting upwardly from said flashing strip in a direction opposite said tab and away from said head jamb. Schiffmann does not teach or disclose such a structure. Rather, Schiffmann discloses a door leg section 46 that does not project upwardly from a flashing strip (identified as "A" by the Office Action) in a direction opposite a tab, but projects toward the head jamb and in the same direction as a transfer web 86B (a structure similar to the tab). Further, Schiffmann does not disclose a nailing fin. Schiffmann discloses a guard having a door leg section 46, which the office action calls the nailing fin but merely covers the door arresting surface 24 of the jamb.

Because Schiffmann fails to disclose every element recited in claim 1, Applicant requests reconsideration and withdrawal of the rejection under 35 U.S.C. §102(a) based on Schiffmann. Claims 2-4 and 8 depend from claim 1 and thus are allowable for at least the same reasons that claim 1 is allowable. Furthermore, independent claims 10 and 19 have been amended similarly to claim 1 and reconsideration and withdrawal of the rejection under 35 U.S.C. §102(a) based on

Schiffmann at least for the reasons discussed above is requested. Claims 12, 13, and 15-17 depend from claim 10 and thus are allowable for at least the same reasons that claim 10 is allowable.

NEW CLAIMS 25-28

Claims 25-28 have been added and further define the scope of the invention, as provided in the specification and drawings. For example, new claim 25 recites a method for protecting a brick mold of a door frame during construction. The method includes attaching a unitary plastic flashing member to a brick mold. The unitary plastic flashing member comprises, among other things, a flashing strip covering an upwardly facing top surface of said brick mold, a tab projecting toward and into a groove of said brick mold, a nailing fin projecting upwardly from said flashing strip in a direction opposite said tab, a drip edge extending along an upper outside edge of said brick mold, a temporary construction cover secured to said drip edge with a tear-away connection. The method further includes the step of tearing away and discarding said temporary construction cover along said tear-away connection to expose said outside face of said brick mold. As a second example, new claim 26 recites a method of flashing the brick mold along a head jamb of a door frame and protecting an outside face of the brick mold from damage during construction of a building in which the door frame is installed. The method includes: positioning a unitary plastic flashing member on the brick mold, the flashing member, when positioned, having a flashing strip overlying an upper surface of the brick mold, a temporary construction cover attached to the flashing member along a tear away connection and projecting downwardly relative to said flashing strip to cover at least partially the outside face of the brick mold, and a nailing fin projecting upwardly in a direction opposite to said temporary construction cover and being disposed against adjacent structure of the building; attaching the unitary plastic flashing member in position with fasteners extending through the nailing fin and into the adjacent structure; at least partially completing construction of the building with the temporary construction cover covering the outside face of the brick mold; and tearing away the temporary construction cover along its tear away connection to expose the outside face of the brick mold.

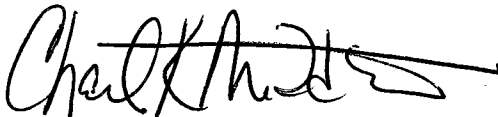
Schiffmann does not teach or suggest such methods as described above. Accordingly, these claims are likewise allowable.

CONCLUSION

In view of the foregoing remarks, the rejection of the claims as set forth in the Final Office Action of June 12, 2008 has been addressed and overcome. Applicant further submits that all pending claims (claims 1-4, 8, 10, 12, 13, 15-17, 19, and 25-28) are in condition for allowance and earnestly requests that a Notice of Allowance be issued. If issues may be resolved through Examiner's Amendment, or clarified in any manner, a call to the undersigned attorney at (404) 879-2479 is earnestly solicited.

The Commissioner is hereby authorized to charge any fees due, or credit any overpayment, to Deposit Account No. **09-0528**.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles K. Middleton", with a long horizontal flourish extending to the right.

Charles K. Middleton
Reg. No. 60,275

Date: September 12, 2008
Womble Carlyle Sandridge & Rice, PLLC
P.O. Box 7037
Atlanta, GA 30357-0037
(404) 879-2479 (direct)
(404) 870-4875 (facsimile)

Atty Docket No.: A042 1100.1 (37927.0022.4)